

RHS, RBS, RUS, FSA, USDA

§ 1951.111

county, as authorized by the Soil Conservation and Domestic Allotment Act and the Department of Agriculture Reorganization Act of 1994, to administer FSA programs approved for the county as appropriate.

(4) *Creditor agency* means a Federal agency to whom a debtor owes a monetary debt. It need not be the same agency that effects the offset.

(5) *Debt management officer* means an agency employee responsible for collection by administrative offset of debts owed the United States.

(6) *Delinquent or past-due* means a payment that was not made by the due date.

(7) *Entity* means a corporation, joint stock company, association, general partnership, limited partnership, limited liability company, irrevocable trust, revocable trust, estate, charitable organization, or other similar organization participating in the farming operation.

(8) *FP* means Farm Programs.

(9) *FLP* means Farm Loan Programs.

(10) *FSA* means Farm Service Agency.

(11) *National Appeals Division* means the organization within the Department of Agriculture that conducts appeals of adverse decisions for program participants under the purview of 7 CFR part 11.

(12) *Offsetting agency* means an agency that withholds from its payment to a debtor an amount owed by the debtor to a creditor agency, and transfers the funds to the creditor agency for application to the debt.

(13) *Propriety* means the offset is feasible. It includes offsetting a debtor's payments due any entity in which the debtor participates either directly or indirectly equal to the debtor's interest in the entity. To be feasible the debt must exist and be 90 days past due or the borrower must be in default of other obligations to the Agency, which can be cured by the payment.

(14) *Reviewing officer* means an agency employee responsible for conducting a hearing or documentary review on the existence of debt and the propriety of administrative offset in accordance with 7 CFR 3.29. FSA District Directors or other State Executive Director des-

ignees are designated to conduct the hearings or reviews.

[65 FR 50602, Aug. 21, 2000, as amended at 67 FR 69671, Nov. 19, 2002; 69 FR 5267, Feb. 4, 2004]

§§ 1951.103–1951.105 [Reserved]

§ 1951.106 Offset of payments to entities related to debtors.

(a) *General*. Collections of delinquent debts through administrative offset will be in accordance with 7 CFR part 3, subpart B, and paragraphs (b) and (c) of this section.

(b) *Offsetting entities*. Collections of delinquent debts through administrative offset may be taken against a debtor's pro rata share of payments due any entity in which the debtor participates when:

(1) It is determined that FSA has a legally enforceable right under state law or Federal law, including program regulations at 7 CFR 792.7(1) and 1403.7(q), to pursue the entity payment;

(2) A debtor has created a shell corporation before receiving a loan, or after receiving a loan, established an entity, or has reorganized, transferred ownership of, or otherwise changed in some manner the debtor's operation or the operation of a related entity for the purpose of avoiding payment of the FSA, FLP debt or otherwise circumventing Agency regulations;

(3) Assets used in the entity's operation include assets pledged as security to the Agency which have been transferred to the entity without payment to the Agency of the value of the security or Agency consent to transfer of the assets;

(4) A corporation to which a payment is due is the alter ego of a debtor; or

(5) A debtor participates in, either directly or indirectly, the entity as determined by FSA.

(c) *Other remedies*. Nothing in this section shall be deemed to limit remedies otherwise available to the Agency under other applicable law.

[65 FR 50603, Aug. 21, 2000]

§§ 1951.107–1951.110 [Reserved]

§ 1951.111 Salary offset.

Salary offset may be used to collect debts arising from delinquent USDA